IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.342 of 2007
IN
Criminal Appeal No.177 of 2007

1. Shrikant Krishnat Tikare
2. Subhash Krishnat Tikare .. .. Applicants (Orig.Accused Nos.2 & 3)

V/s.

1.The State of Maharashtra
2.Smt.Shobha Mahesh Jagdale .. Respondents (Respondent No.2 – Orig. Complainant)

Mr.Shekhar Ingawale for Applicants.

Mr.A.R. Patil, Additional Public Prosecutor for Respondents.

CORAM : DR.S. RADHAKRISHNAN &

SMT.ROSHAN DALVI, JJ.

Dated : 7th September, 2007

P.C. :

1. Heard the learned Counsel for the Applicants and the learned Additional Public Prosecutor for the Respondents.

2. The above Bail Application has been preferred by the

original Accused Nos.2 and 3, who have been convicted for the offence under Section 302 read with Section 34 of the Indian Penal Code.

3. In the above matter, all eye witnesses turned hostile, except P.W.9-Shobha (Complainant) wife of the deceased Mahesh, who had already filed a complaint against the Accused. We have perused her statement recorded under Section 164 of the Code of Criminal Procedure. In the said statement, there is no mention about the Applicants (original Accused Nos.2 and 3) assaulting her deceased husband. There is only a mention of assault on her by them. Over and above, the learned Counsel for the Applicants pointed out that the blood group of the deceased-Mahesh was "A". The weapons, which were used, were two sticks and one iron rod and the Chemical Analyser Report indicated that on one stick no group was detected and on another stick and the iron rod the blood group detected was "B" Group. The evidence of the wife of the deceased-Mahesh shows that both

these Applicants had used sticks and their father had used an iron rod. Even the Doctor, who conducted the postmortem, has not opined that the injuries caused were sufficient in ordinary course of nature to cause death to the deceased-Mahesh. Over and above, both the aforesaid Applicants have no previous criminal antecedents and they were on bail during trial.

4. In the aforesaid circumstances, we grant bail to both the above Applicants (original Accused Nos.2 and 3) on the same terms and conditions on which they were granted bail by the Trial Court. They shall execute fresh Bonds before the Trial Court.

5. Both the above Applicants (original Accused Nos.2 and 3) shall report to Juna Rajawada Police Station, Kolhapur, on the first Monday of every month.

6. Application stands disposed of accordingly.

(DR.S. RADHAKRISHNAN, J.)

(SMT.ROSHAN DALVI, J.)